

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

12094

**FILE:** B-209628.2

**DATE:** December 8, 1982

**MATTER OF:** Bergey Windpower Company, Inc.

**DIGEST:**

Protest alleging that specifications are impossible of performance is untimely when not filed until after bid opening and award of the contract and will not be considered.

Bergey Windpower Company, Inc. (Bergey), protests as impossible of performance the specifications in invitation for bids (IFB) No. 5000-82-116, issued by the National Park Service, for a wind-powered generator system for Biscayne National Park.

Section 21.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1982), provides that protests based on alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening.

The protest shows that bid opening was on September 27, 1982, and the contract was awarded on September 28, 1982. The protest was not filed until November 4, 1982. Since the protest was not filed prior to bid opening, it is untimely and will not be considered.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel